

REMARKS

The Examiner is thanked for the indication of allowable subject matter. In response to the Examiner's indication that claims 6-7, 9-11, and 14 would be allowable if amended to overcome the Examiner's objections, claims 6, 7, 9, and 14 have been amended to independent form. In response to the Examiner's rejection of claims 16-18 and 22 under 35 USC § 112, second paragraph, claims 16-18 have been canceled and claim 22 has been amended for clarification. In response to the Examiner's objection to the drawings under 37 CFR 1.83(a), the claims having the objectionable language have been canceled; thus, corrected drawings are unnecessary. In response to the Examiner's rejection of claims 1-3, 5, 8, 15-17, and 21-23 under 35 USC § 102(b) as anticipated by Lichy and the rejection of claims 4, 18-20, and 24 under 35 USC § 103(a) as unpatentable over Lichy, Alkhoury, and/or Sivin, Applicant has canceled claims 1, 5, 8, and 15-20, and has amended claims 2-4 and 21-24 to depend from allowable claim 6. In response to the Examiner's rejection of claims 11-14 under 35 USC § 112, second paragraph, and the rejection of claims 12-13 under 35 USC § 102(b) as anticipated by Lichy, Applicant respectfully traverses.

35 USC § 112 Rejection

In response to the Examiner's rejection of claims 11-14 under 35 USC § 112, second paragraph, Applicant respectfully traverses. The Examiner has indicated that "the recitation 'perpendicular to the plane of the opening' is not understood." These claims are directed to the embodiment shown in FIGS. 2-3 and described in the specification from page 7, line 9 to page 8, line 15. The language "perpendicular to the plane of the

opening” describes a second direction that the track can move, namely in the plane perpendicular to the plane of the opening. The specification teaches:

As best shown in FIGS. 2-3, both tracks 1, 2 are on the same side of their respective frames 5, 6, referred to as the track side 30 of the apparatus 10. The opposite side of the apparatus 10 is the non-track side 31. As best shown in FIG. 3, if an external force is applied originating from the non-track side 31, then the edges of the track 12 are not only able to slide inwardly towards the opening 4, but are also able to separate from the frame and move in the direction of the force. This movement allows even less stress to be borne by the curtain 7 and thus less chance that the curtain 7 will fail. (Page 7, lines 10-17; emphasis added).

So that the track edges 12 may separate from the frame members 5, 6, the connecting member 15 is preferably a bolt where the head of the bolt prevents the tracks 1, 2 from completely detaching from the frame members 5, 6, but is not completely tightened to maintain the tracks 1, 2 flush with the frame members 5, 6, thereby allowing the tracks 1, 2 to move in the plane perpendicular to the plane of the opening 4. While such positioning of the connecting member 15 allows the track edges 12 to separate from the frame members 5, 6 upon the application of an external force, it is preferable that, in the absence of such a force, the track edges 12 abut the frame members 5, 6. Thus, as best shown in FIGS. 2-3, a compression spring 101 and a washer 102 are preferably located between the head of each connecting member 15 and its corresponding tracks 1, 2. The tension of the compression springs 101 are preferably weak enough to permit the track edges 12 to separate from the frame members 5, 6 upon the application to the apparatus 10 of an external force, yet strong enough to urge the track edges 12 to return to their original positions abutting the frame members 5, 6 upon the termination of such external force. (Page 8, lines 1-15; emphasis added).

The Applicant believes that the claim language is clear in light of the specification and, thus, respectfully requests the Examiner to withdraw the rejection of claims 11-14 under 35 USC § 112. If the Examiner still believes the claim language is unclear, the Examiner is invited to call the undersigned to discuss clarifying language.

35 USC § 102 Rejection

In response to the Examiner’s rejection of claims 12-13 under 35 USC § 102(b) as anticipated by Lichy, the Applicant respectfully traverses. According to patent law,

anticipation under § 102 “requires the presence in a single prior art disclosure of each and every element of a claimed invention.” Lewmar Marine, Inc. v. Barient, Inc., 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, (Fed. Cir. 1987). Further, “every element of the claimed invention must be identically shown in a single reference.” Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 677, 7 U.S.P.Q.2d 1315, (Fed. Cir. 1988).

Independent claim 12 recites a track on each of the opposing sides of the opening for securing an edge of the curtain “wherein at least one track is mounted to a side of the opening such that the track can move in a direction substantially perpendicular to the plane of the opening to decrease tension on said curtain.” As noted above in the discussion relative to the 35 USC § 112 Rejection, the language “perpendicular to the plane of the opening” describes a second direction that the track can move, namely in the plane perpendicular to the plane of the opening. Lichy does not teach or suggest a track that can move in a direction substantially perpendicular to the plane of the opening. Accordingly, the § 102 rejection must be withdrawn. Further, the other references of record do not teach or suggest modifying Lichy to arrive at the novel and nonobvious features of the claimed invention.

Conclusion

In light of the foregoing amendments and remarks, the Applicant respectfully requests that the Examiner withdraw the rejections and allow all the pending claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'K. Bush', with a long horizontal stroke extending to the right.

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